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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92055838
Party	Plaintiff William Eadie
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Attachments	Eadie - Petitioners Amended Response to Motion to Dismiss - as filed.pdf (4 pages)(99599 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 2,037,202 for the mark MISS NUDE INTERNATIONAL, registered on February 11, 1997 and Registration No. 3,039,826 for the mark MISS NUDE WORLD, registered on January 10, 2006.

Opposition No. 91,200,183

Cancellation No. 92,055,838

The Worlds Pageants, LLC

William Eadie

Opposer

Petitioner

V.

V.

Miss G-String International LLC

The Worlds Pageants, LLC

Applicant

Registrant

September 4, 2012

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**COMMISSIONER OF TRADEMARKS
UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451**

**PETITIONER'S AMENDED RESPONSE TO ALLEGED
REGISTRANT'S MOTION TO DISMISS AND AMENDED MOTION
FOR LEAVE TO FILE SECOND AMENDED PETITION TO CANCEL**

1. Petitioner William Eadie, hereby responds to alleged Registrant's Motion To Dismiss and moves the Board for an Order permitting him to file an Amended Petition to Cancel to correct a scrivener's error.

I. INTRODUCTION

2. On July 10, 2012 Petitioner filed his Petition to Cancel R&D PROMOTIONS, INC.'s U.S. Registration No. 2,037,202 for the mark MISS NUDE INTERNATIONAL and U.S. Registration No. 3,039,826 for the mark MISS NUDE WORLD.

3. On August 21, 2012, the alleged Registrant, THE WORLDS PAGEANTS, LLC (ALLEGED REGISTRANT) filed a Motion to Dismiss.

4. In the Petition to Cancel, Petitioner disputes that alleged Registrant is now, or has ever been, the lawful assignee of U.S. Registration No. 2,037,202 for the mark MISS NUDE INTERNATIONAL and U.S. Registration No. 3,039,826 for the mark MISS NUDE WORLD. Further the alleged Registrant's claim to the marks is based solely upon the fraudulent conveyance of assets conceived to defraud the United States Patent and Trademark (USPTO) with intend to avoid the execution of a valid and enforceable court order, thereby circumventing the proper and lawful ownership of the trademarks by Petitioner.

5. Upon reviewing the alleged Registrant's Motion to Dismiss, Petitioner became aware that the requested relief is in the form of cancellation of Registrant's mark. This was an inadvertent error by Petitioner as Petitioner only seeks to have the ownership of U.S. Registration No. 2,037,202 for the mark MISS NUDE INTERNATIONAL and U.S. Registration No. 3,039,826 for the mark MISS NUDE WORLD transferred from Registrant to Petitioner and does not seek to cancel the registrations.

6. Petitioner hereby requests that the Petition to Cancel to be amended and the Board rule that the Owner of Record be changed from REGISTRANT to PETITIONER based upon the facts alleged in the Amended Petition to Cancel and the additional matters raised herein.

II. ARGUMENT

7. Pursuant to Fed.R.Civ.P. 15(a), leave to amend shall be freely given when justice so requires. The Board liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party. TMP § 507.02, See, For example *Polaris Industries v. D.C. Comics*, 59 USPQ 2d 1789 (TTAB 2001); *Boral Ltd. v. FMC Corp.*, 59 USPQ 2d 1701 (TTAB 2000).

8. Petitioner submits that permitting it to amend its Petition to Cancel will not prejudice the alleged Registrant and that this motion is timely insofar as the issue is a mere scrivener's error.

9. Since the Cancellation Proceeding is still in the pre-trial stage, prior to any testimony having been taken, Leave to Amend should be allowed. See, e.g., *Space Base, Inc. v. Stadis Corp.*, 17 USPQ 2d 1216 (TTAB 1990). By allowing Petitioner to amend his Petition to Cancel, the Board is permitting full adjudication of the merits of the dispute. See, Beth A. Chapman, *TIPS FROM THE TTAB: Amending Pleadings: The Right Stuff*, 81 Trademark Rep. 306 (1991)

Ende Corp

Attorney for Applicant/Petitioner
Signed September 4, 2012